

### **REMARKS/ARGUMENTS**

Claims 1, 3, 7 and 8 have been amended. No new matter has been added to the claims. Claims 2 and 9-19 are cancelled. Upon entry of the above amendments, claims 1, 3-8 and 20-39 will be pending. It is respectfully submitted that no new matter has been introduced and no new issues have been raised as a result of the above amendments to the claims. Support for the amendments may be found throughout the specification. Furthermore, it is respectfully submitted that Applicants' amendment is in compliance with 37 C.F.R. 1.173(b)-(g) and 37 C.F.R. 1.121(i). Reconsideration and allowance of the subject application based on the following remarks is respectfully requested.

Claim 3 was objected to because the last word in line 3 of the previously presented claims, *i.e.*, "metharcylate," was spelled incorrectly. Claim 3 has been amended to correct this spelling error. Accordingly, Applicants respectfully submit that currently amended claim 3 is allowable.

Claims 1 and 3-9 were objected to under 37 C.F.R. 1.75(i) as being in improper form because each of a plurality of elements or steps of the claim should be separated by a line indentation. Claim 1 has been amended to correct its improper claim form and any claims dependent therefrom, *i.e.*, current claims 3-8. Accordingly, Applicants respectfully submit that currently amended claim 1 and dependent claims 3-8 are allowable.

Claims 32-53 were objected to under 37 C.F.R. 1.173(e) as being in improper form in that the numbering of any added claims must follow the number of the highest numbered patent claim (*i.e.*, claim 19). Applicants have corrected the numbering of the claims to conform with 37 C.F.R. 1.173(e). Specifically, claims 32-53 have been renumbered accordingly (after having cancelled claims 39 and 50) and, therefore, Applicants respectfully submit that re-numbered claims 20-39 are allowable.

Claim 41 was objected to under 37 C.F.R. 1.173(e) as being of improper dependent form for failing to further limit the subject matter of a previous claim. Specifically, the Examiner has stated that "the limitation 'about 95' is outside of the limitation range of the claim from which this claim depends (page 7). Claim 28 (previously claim 41) depends on claim 20 (previously claim 32). The limitation the

Examiner is referring to, *i.e.*, "about 95" is stated in claim 41 (re-numbered claim 28) as "wherein said matrix is present in an amount of about 80 to about 95 percent of the acrylic composition." This claim is, at a minimum, directed toward the amount of matrix relative to the acrylic composition. Claim 20 (previously claim 32) does not contain a range directed toward the amount of matrix relative to the acrylic composition. Thus, Applicants respectfully request reconsideration of this objection. Accordingly, Applicants respectfully submit that claim 28 (previously claim 41) is allowable.

Claims 1, 3-9, and 32-53 were rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. Specifically, the Examiner has stated that the "reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application." (page 7). More specifically, "the statement of error fails to identify specifically the error being relied upon as a basis for the reissue, *e.g.*, the specific claim language wherein the error lies." Applicants respectfully disagree that the declaration is defective. Specifically, Applicants note that in its Reissue Application Declaration, which was received by the Patent Office on December 23, 2003, it expressly stated "at least one error upon which reissue is based is described as follows: In light of U.S. Patent 3,345,434, the scope of claim 1 may be too broad." Applicants believe that this statement satisfies the requirement for filing an effective Reissue Declaration, and, therefore, respectfully requests reconsideration of the rejection.

Claims 1, 3-9, and 32-41 were rejected under 35 U.S.C. 251 as being based upon new matter added to the patent for which reissue is sought. In view of the amendments to claim 1 and claim 20 (previously claim 32), Applicants respectfully request reconsideration of these rejections.

Claims 1, 3-9, and 32-53 were rejected under 35 U.S.C. 251 as being broadened in a reissue application file outside the two year statutory period. In view of the amendments to claims 1, 20 (previously claim 32), and 29 (previously claim 42), Applicants respectfully request reconsideration of this rejection.

Claims 1, 3-9, and 42-53 were rejected under 35 U.S.C. 112, first paragraph, lack of enablement. The Examiner admits that the specification is enabling for a matrix formed as described by the paragraph bridging columns 2-3. The Examiner,

however, states that the specification is not enabling for a matrix formed solely from MMA or from a syrup having other than "about 25% of PMMA solids with excess MMA monomer." (page 9). Applicants respectfully direct Examiner's attention to the above amendments.

Claims 1, 5-8, 32, 35-38, 40-42, 46-49, and 51-53 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimatsu (JP 04-279668-A, as understood from Applicant-supplied translation) in view of Buser et al. (US 4,159,301). Claims 1, 3-8, and 42-53 were rejected under 35 U.S.C. 103(a) as being unpatentable over Deckers et al. (EP 0582951 A2, as evidenced by US 5475055 A) and Kamiyama et al. (EP 443609A2). Claims 32-38, 40 and 41 were rejected under 35 U.S.C. 103(a) as being unpatentable over Deckers et al, Kamiyama further taken with Buser et al. Claims 1, 3-8, and 42-53 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al. (US 5,237,004 A). Claims 32-38, 40, and 41 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al. further taken with Buser et al. Claims 1, 5-8, and 42-53 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hennig et al. (US 4,876,311). Claims 32-38, 40, and 41 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hennig et al. further taken with Buser et al.

In view of the amendments to claim, Applicants respectfully submit that none of combination of references above suggest the claimed invention. Specifically, none of these combinations suggest an acrylic composition comprising a matrix of polymethyl methacrylate, whereby the particles "have a particle size of about 250 to 600 microns prior to mixing said particles with said matrix." Thus, Applicants respectfully request reconsideration of each of these rejections.

Claims 1, 3-9, and 42-53 were rejected under 35 U.S.C. 103(a) as being unpatentable over Roemer et al. (US 4,396,476). Claims 32-41 were rejected under 35 U.S.C. 103(a) as being unpatentable over Roemer further taken with Buser. Applicants respectfully traverse this rejection for at least the following reason. The Examiner states that Roemer discloses "the proportions of *comonomer* to methyl methacrylate in the particle phase are suggested in the examples and range from 0.2 (example 6) to 10 (example 4) to 30 (example 3)." (*emphasis added*). This comonomer disclosed in Roemer acts as a crosslinker. In contrast, the particles of

the present invention comprise polymethylmethacrylate, a comonomer (not capable of crosslinking) and crosslinker. Thus, Applicants respectfully submit that neither Roemer nor Buser suggests the claimed invention, and, therefore, Applicants respectfully request reconsideration of each of these rejections.

Claims 1, 3-9 and 42-53 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kishida et al. (JP 59-38253A, as evidenced by Applicant supplied translation). Claims 32-41 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kishida further taken with Buser. Applicants respectfully disagree.

Regarding the method claims, *i.e.*, claim 20 (previously claim 32) and claim 29 (previously claim 42), and their dependents, Applicants submit that the method disclosed by Kishida and the methods of the claimed invention are different. Kishida describes mixing the crosslinked polymer particles with a molten form of the preformed polymethylmethacrylate polymer (essentially mixing two preformed polymers and melting them together). In contrast, the claimed methods are directed to forming an article from crosslinked polymer particles within, *inter alia*, a partially polymerized matrix. Neither Kishida nor Buser suggests the methods according to the claimed invention. Thus, Applicants respectfully request reconsideration of these rejections.

Regarding the composition claim, *i.e.*, claim 1, and its dependents, Applicants submit that a combination of comonomer in the narrow range as claimed, *i.e.*, "12 to about 20 weight percent" in conjunction with a crosslinker in the range as claimed, *i.e.*, "more than 0.4 weight percent to about 1.0 weight percent," specifies an exceptional composition. See Figure 1. Specifically, one of ordinary skill in the art would appreciate the multitude of factors that are carefully balanced in the exceptional results of the present composition. It should be noted that increasing the amount of comonomer increases the rate of swelling and the degree of softness of the particles. This amount, however, if increased too much, will result in particles that are too soft and, therefore, unworkable for the present invention. The amount of crosslinker, on the other hand, helps to control the degree of swelling and thermoformability of the particles. Thus, it is, *inter alia*, the specific balance of comonomer in the narrow range as claimed, *i.e.*, "12 to about 20 weight percent" in conjunction with a crosslinker in the range as claimed, *i.e.*, "more than 0.4 weight

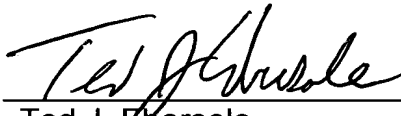
percent to about 1.0 weight percent," that is important for the claimed invention. Applicants submit that Kishida does not suggest the composition according to the claimed invention. Thus, Applicants respectfully request reconsideration of these rejections.

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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